

**MINUTES OF SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE  
PALMDALE WATER DISTRICT, AUGUST 19, 2011:**

*A special meeting of the Board of Directors of the Palmdale Water District was held Friday, August 19, 2011, at 2029 East Avenue Q, Palmdale, California; in the Board Room of the District office. President, Gordon Dexter, called the meeting to order and stated that the public is invited to contribute to the meeting and will have an opportunity to speak to any agenda item before the Board takes action.*

**1) Pledge of Allegiance.**

President Dexter led the pledge of allegiance.

**2) Roll Call.**

**Attendance:**

Gordon Dexter, President

Raul Figueroa, Secretary

Linda Godin, Treasurer

Jeff Storm, Director

Steve Cordova, Vice President –

EXCUSED ABSENCE

**Others Present:**

Dennis LaMoreaux, General Manager

Tim Gosney, Attorney

Mike Williams, Finance Manager

Peter Thompson II, Operations Manager

Kelly Jeters, Systems Supervisor

Peter Thompson, Project Manager

Danielle Doll, Administrative Assistant

7 members of the public

**3) Adoption of Agenda.**

President Dexter requested Consent Calendar be stricken from Agenda Item No. 8 after which it was moved by Director Storm, seconded by Director Figueroa, and unanimously carried to adopt the agenda, as amended, striking Consent Calendar from Agenda Item No. 8.

**4) Public Comment on Closed Session Agenda Matters.**

Mr. Greg Kunert, of Richards, Watson & Gershon representing the City of Palmdale in litigation against the Palmdale Water District, stated that he is inclined to think the closed session will bear somewhat on Agenda Item No. 8 regarding the future course of litigation on the rate structure and then offered the City of Palmdale's legal counsel's opinion on what the Court of Appeals decision will require and how all parties can best reach a conclusion to the litigation and stated that Resolution No. 11-8 is a band-aid, and if the District needs a rate increase, the best thing to do is to impose a valid rate increase in compliance with Proposition 218.

President Dexter then stated that most of the information presented by Mr. Kunert can be heard after closed session as Mr. Kunert will again have the opportunity to speak under Agenda Item No. 8.

Mr. Steve Chisolm, Palmdale resident, inquired if the proposed Resolution would result in all customers of the Palmdale Water District receiving a rebate and requested how he would apply for a rebate after which he was informed this matter would be discussed after closed session.

There were no further public comments on closed session agenda matters.

**5) Closed Session Under:**

**5.1) Government Code Section 54956.9(a), existing litigation: *City of Palmdale vs. Palmdale Water District and Palmdale Water District Public Facilities Corporation, Case No. BC413907 (Validation Action).***

At 11:06 a.m., President Dexter called for a closed session pursuant to Government Code Section 54956.9(a), existing litigation – one case: *City of Palmdale vs. Palmdale Water District and Palmdale Water District Public Facilities Corporation, Case No. BC413907 (Validation Action).*

He reconvened the special meeting at 11:33 a.m.

**6) Public Report of Any Action Taken in Closed Session.**

Attorney Gosney reported that a closed session had been held under Government Code Section 54956.9(a), existing litigation – one case: *City of Palmdale vs. Palmdale Water District and Palmdale Water District Public Facilities Corporation, Case No. BC413907 (Validation Action)*; that the Board was briefed on the current state of affairs on this matter, and the Board gave staff and Counsel instructions as to how to proceed; but that no reportable action under the Brown Act was taken in closed session on any of these matters.

**7) Public Comment for Non-Agenda Items.**

There were no public comments.

**8) Action Items – (The Public Will Have an Opportunity to Comment on any Action Item as Each Item is Considered by the Board of Directors Prior to Action Being Taken.)**

**8.1) Consideration and Possible Action on Resolution No. 11-8 to Revise Rate Structure to Equalize Tier Ranges Among User Classes. (General Manager LaMoreaux)**

General Manager LaMoreaux stated that the appellate court recently ruled and pointed out a technical flaw in the District's rate structure and that Resolution No. 11-8 addresses this technical flaw by making all higher tier percentages the same for all customers and makes this change retroactive to June, 2009, and after a brief discussion, it was moved by Director Figueroa and seconded by Director Godin to approve Resolution No. 11-8 to Revise the Rate Structure to Equalize Tier Ranges Among User Classes.

Mr. Greg Kunert, of Richards, Watson & Gershon representing the City of Palmdale in litigation against the Palmdale Water District, stated that this Resolution by itself will not solve the problem as their opinion of the Court of Appeal decision declares the entire rate structure unconstitutional, and the Board will have to redo the rates; that if the District takes the position that the problem is solved because these tiers have been adjusted, there will be further litigation; that his opinion is that if the District complies with the court's direction, every customer will be entitled to some refund as every customer got an illegal rate increase in 2009, but there are provisions in the Resolution for further rate studies, and this is on the right track; and that the City of Palmdale will be pursuing all refunds they are entitled to for having been overcharged the past couple of years.

The motion then unanimously carried.

**9) Board Members Requests for Future Agenda Items.**

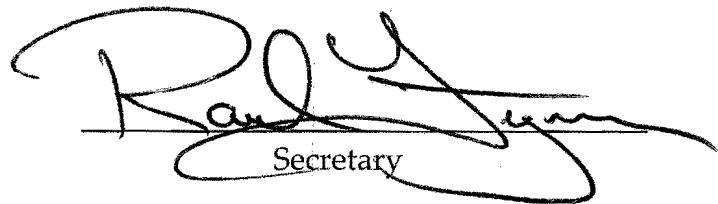
Director Storm requested a future agenda item prior to the expiration of his term to review the District's benefit package and stated that he has requested this be reviewed for several years and that he feels the District has not done a good job of cutting and cutting deeply, employees should be paying part of their CALPERS and their medical, and this is the District's single largest expense and is something the District should be discussing.

After clarification that this is being repeatedly discussed at the Personnel Committee level, Director Storm requested this be placed on a future agenda for consideration.

There were no further requests for future agenda items.

**10) Adjournment.**

There being no further business to come before the Board, the meeting was adjourned.



Secretary

## RESOLUTION NO. 11-8

### RESOLUTION OF THE BOARD OF DIRECTORS OF PALMDALE WATER DISTRICT TO REVISE WATER RATE STRUCTURE TO EQUALIZE TIER RANGES AMONG USER CLASSES

**WHEREAS**, on May 13, 2009, the Board of Directors of Palmdale Water District ("District") approved and adopted District Resolution No. 09-08, which implemented a water budget rate structure and associated rates based on tiers of usage among single family residential-multi-family residential, commercial and irrigation user classes (the "2009 Rate Structure"); and

**WHEREAS**, the 2009 Rate Structure was challenged in two lawsuits brought by the City of Palmdale ("City"); and

**WHEREAS**, the California Court of Appeal ruled on August 9, 2011 in the City of Palmdale v. Palmdale Water District, Second District Court of Appeal Case No. B224869, that certain aspects of the 2009 Rate Structure (namely, the range of tiers among different user classes) did not comply with the requirements of Article XIID, Section 6 of the California Constitution; and

**WHEREAS**, the District desires to promptly comply with the direction of the Court of Appeal on an interim basis, until a more thorough study and analysis can be completed to determine what, if any, further adjustments to the 2009 Rate Structure are necessary to bring it into compliance with the requirements of Article XIID, Section 6 of the California Constitution,

**NOW, THEREFORE, BE IT RESOLVED** that the District's Board of Directors hereby amends the tier ranges in its water rate structure retroactive to June 1, 2009, effective beginning the September, 2011, billing cycle, as set forth in the table below:

Tier	SFR/MFR	Commercial	Irrigation
Tier 2	100-130%	100-130%	100-130%
Tier 3	130-160%	130-160%	130-160%
Tier 4	160-190%	160-190%	160-190%
Tier 5	Above 190%	Above 190%	Above 190%

**BE IT FURTHER RESOLVED** that District staff is directed and instructed to implement the above-referenced adjustments to user class tiers as soon as possible, and to prepare any necessary revisions to the District's Rules and Regulations to memorialize those adjustments, which revisions are hereby deemed approved by this action.

**BE IT FURTHER RESOLVED** that the District's Board of Directors finds and determines that the above-referenced adjustments will result in reduced water rates for District customers and thus compliance with the procedural requirements Article XIID, Section 6 of the California Constitution is not required to take this action.

**BE IT FURTHER RESOLVED** that the District's Board of Directors hereby finds that the above-referenced adjustments are statutorily exempt from compliance with the California Environmental Quality Act (Public Resources Code sections 21000 et seq.) pursuant to CEQA Guidelines section 15273 as the adjustments constitute a modification of the District's rate structure and apply only to rates to obtain funds necessary to meet the District's operating expenses; to purchase or lease equipment supplies or materials; to meet financial reserve needs and requirements; and to obtain funds for capital projects necessary to maintain service within existing service areas.

**CERTIFICATION:**

I hereby certify that the foregoing Resolution No. 11-8 was duly and regularly adopted by the Board of Directors of the Palmdale Water District at the meeting thereof held on the 19<sup>th</sup> day of August, 2011 by the following vote:

AYES: Directors Dexter, Figueroa, Godin, and Storm

NOES: None

ABSTAIN: None

ABSENT: Director Cordova

  
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GORDON DEXTER, President,  
Board of Directors

ATTEST:

  
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RAUL FIGUEROA, Secretary,  
Board of Directors